

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

STEVEN M. DENENBERG)	CASE NO._____
)	
Plaintiff,)	
)	
vs.)	COMPLAINT
)	
SIMON OURIAN, EPIONE MEDICAL)	
CORPORATION, and BEVERLY)	
HILLS MAKEOVER)	
)	
Defendants)	

COMES NOW the Plaintiff and for causes of action against the Defendants states and alleges as follows:

JURISDICTION AND VENUE

1. That Plaintiff is a resident of Omaha, Douglas County, Nebraska.
2. That Defendants are residents of California.
3. That Plaintiff and Defendant Simon Ourian are plastic surgeons actively engaged in the practice of medicine. That Epione Medical Corporation is an entity promoting the practice of Dr. Simon Ourian.
4. That this action includes inter alia claims for infringement of copyright. Jurisdiction is therefore provided under U.S.C. 1331 and 1338(a). Complaint is also made in this action for related causes of action. This court has pendent jurisdiction over such claims.

COPYRIGHT CAUSE OF ACTION NO. 1

5. That Plaintiff has established an Internet website that displays the outstanding quality of surgery he performs by showing before and after photographs of patients he has operated on.

6. That all of the content (text, photographs and diagrams) of the Internet website has been registered with the United States Copyright Office and every page and photograph on said website is protected by the U.S. copyright laws by reason of compliance with all regulations.

7. That the Plaintiff's Internet website address is www.facialsurgery.com.

8. That in 2004 the Defendants established websites for the practice of plastic surgery in which they engage in southern California. That the Internet addresses of their websites are www.Epione.com and www.Beverlyhillsmakeover.com.

9. That the Defendants, in an effort to enhance their practice, displayed before and after photographs of facial plastic surgery patients on the above websites.

10. That many of the photographs displayed on Defendants' websites were photographs of Plaintiff's patients on whom Plaintiff had operated. That the photographs were copied from Plaintiff's copyrighted website. That the transmission of Defendants' websites is an infringement within the meaning of Title 17, Chapter 15, of the U.S. Code.

11. That Defendants have profited by and used Plaintiff's copyrighted works of authorship without authority to do so, and contrary to U.S. copyright law.

WHEREFORE, Plaintiff prays as follows:

A. That Defendants be cited to appear and answer here.

B. For a judgment against the Defendant Dr. Simon Ourian for Plaintiff's damages sustained or for special damages in the amount of \$150,000.00 as allowed by law, at Plaintiff's option.

C. For a judgment against Defendant Epione Medical Corporation and its wholly owned subsidiary, Beverly Hills Makeover, for Plaintiff's damages sustained or for special damages in the amount of \$150,000.00 as allowed by law.

D. For a preliminary injunction and permanent injunction.

E. For reasonable and necessary attorney's fees.

F. For pre-judgment and post-judgment interest.

G. For court costs.

H. For such other and further relief to which Plaintiff has shown himself to be entitled.

CAUSE OF ACTION NO. 2 (CONSUMER PROTECTION ACT)

12. That Plaintiff incorporates paragraphs 1-11 of this Complaint into Cause of Action No. 2.

13. That the Nebraska Consumer Protection Act, NRS 59-1602, provides as follows:

Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce shall be unlawful.

14. That Defendants' acts were unfair and deceptive and a violation of the Nebraska Consumer Protection Act.

WHEREFORE Plaintiff prays for damages allowed by law on Cause of Action No. 2, for reasonable attorney's fees and for costs herein expended.

CAUSE OF ACTION NO. 3 (LANHAM ACT [15 U.S.C.])

15. That Plaintiff incorporates paragraphs 1-14 of this Complaint into Cause of Action No. 3.

16. That Defendants' acts above set forth violated U.S. Code Title 15, Chapter 22, Subchapter III, Sec. 1125, which provides as follows:

(a) Civil Action

(1) Any person who **uses** false or misleading representations of fact, which—

(A) is likely to cause confusion, or to cause mistake or to deceive as to the **services, or commercial activities by another person,**shall be liable in a civil action by any person who believes that he or she is likely to be damaged by such act.

WHEREFORE, Plaintiff prays for damages allowed by law on Cause of Action No. 3, and for reasonable attorney's fees and for costs herein expended.

Dated this 1st day of July, 2008.

STEVEN M. DENENBERG, Plaintiff

By: s/Norman Denenberg
Norman Denenberg (#10983)
3814 Dodge St.
Omaha NE 68131
(402) 551-5540
Attorney for Plaintiff

Plaintiff hereby requests trial be held in Omaha, Nebraska
Plaintiff hereby requests, pursuant to Rule 38b(2), jury trial on this Complaint.

CERTIFICATE OF SERVICE

The undersigned certifies that on July 1, 2008 the above and foregoing Complaint was served by United States mail, postage prepaid, on Simon Ourian, Epione Medical Corporation and Beverly Hills Makeover, 444 North Camden Dr., Beverly Hills CA 90210

s/Norman Denenberg

Attorney for Plaintiff